



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,619	02/12/2004	Suresh Rangaswamy Babu	11884/407501	3957
23838	7590	04/13/2006	EXAMINER	
KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005			RUHL, DENNIS WILLIAM	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/30/06 has been entered.

The examiner has reviewed the currently pending claims and has concluded that it is an undue burden on the examiner to examine all the claims due to the fact that they diverge in subject matter to a point that the alleged novel features differ from claim set to claim set. Initially, at the first action on the merits the examiner felt that the breadth of the claims allowed for examination without an undue burden, but the examiner has reconsidered in view of the subject matter and the burdensome prosecution history. A restriction may be made anytime an application is in a non-final status and that is the present situation.

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-6, drawn to a recall management system, classified in class 702, subclass 185.
 - II. Claims 7-9,17-19, drawn to a method of detecting product defects, classified in class 705, subclass 1.
 - III. Claims 10-16, drawn to a method and system for recall notification, classified in class 705 subclass 1.

Art Unit: 3629

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the method of detecting product defects can be performed with a materially different product. The system claims are not required in the method claims and the method can be done by using a computer that does not have any of the recited elements in the system claims.
3. Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility such as in a manufacturing facility where it would be desirable to know if any machines are not working properly so that they can be fixed. See MPEP § 806.05(d).
4. Inventions I and III are related as products which share an alleged common utility of being used in some kind of recall undertaking but the common utility is not linked to a substantial structural feature. The products in this relationship are distinct if either or both of the following can be shown: (1) that the products encompass embodiments that are not required to perform the common utility or (2) that the products as claimed can be used to perform another utility. In this case, the products can be used to perform

another utility. The method of III can be used to notify persons of product data but is not used to actually determine a pattern of product defects.

5. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Art Unit: 3629

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 571-272-6808. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DENNIS RUHL
PRIMARY EXAMINER